

REMARKS

Prior to this Amendment, Claims 1-21 were pending in the present application, with Claims 1, 8 and 14 being independent. It is gratefully acknowledged that the Examiner found allowable subject matter in Claims 2-3, 9 and 16-17.

The Examiner rejected Claims 1, 4-8, 10-12, 14-15 and 18-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2004/0013102 to Fong et al. (hereinafter *Fong*) in view of U.S. Publication No. 2007/0024559 to *Ahn*.

Please amend Claims 1, 8 and 14-17, and cancel Claim 13 without prejudice. No new matter has been added. Accordingly, Claims 1-12 and 14-21 will be pending upon entry of this Amendment.

Regarding the rejection under 35 U.S.C. §103(a), it was previously argued that *Fong* does not teach requesting an automatic repeat request acknowledgement (ARQ-ACK) message of downlink data upon requesting the CQI from a subscriber station, contrary to the Examiner's previous allegation. The Examiner now concedes that *Fong* fails to teach requesting an automatic repeat request acknowledgement message of downlink data upon requesting the control quality information from a subscriber station, but alleged that *Ahn* cures this deficiency in *Fong* (Applicants glean that on pages 3-4 of the Office Action, "xxx" represents *Fong*, and "yyy" represents *Ahn*). Applicants respectfully disagree.

Claim 1 recites, inter alia, a base station determining timing of a channel quality information request. In paragraph [0053] cited by the Examiner, *Fong* teaches that following the reception and attempted decoding of the subpackets transmitted on the F-PDCH, the MS supplies to the BS via the R-CQICH feedback information about the received signal quality (CQI) for the forward packet data channel. This information can be used by the BS to control transmission power to the MS, determine data rate (encoder packet size and transmission duration), trigger packet data channel handoff, determine scheduling for the packet data channel, etc.

However, *Fong* fails to teach a base station determining timing of a CQI request, as claimed, because the BS only receives feedback information about the CQI, not timing of the CQI request. Although the BS in *Fong* may use the feedback information to determine a data rate and scheduling for the packet data (see paragraph [0053]), nowhere does *Fong* teach or even fairly suggest that the BS determines timing of the CQI request, as in the rejected claims.

Ahn teaches a power controlling method of response (ACK/NACK) signals for transmitting the ACK/NACK signals in different power based on the permissible probabilities of reception error that the system requires. However, *Ahn* fails to cure the stated deficiencies in *Fong*.

Similar recitations are found in independent Claims 8 and 14. For at least these reasons, it is respectfully submitted that the §103(a) rejection is incorrect, and withdrawal thereof is respectfully requested.

Moreover, *Fong* and *Ahn* fail to teach the ARQ-ACK message and the CQI are requested at the timing determined by the base station, the CQI is included in the ARQ-ACK messages transmitted by the subscriber station, and the CQI is extracted from the ARQ-ACK messages by the base station, as in the amended claims.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12 and 14-21, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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